on an annual filing basis or during renewal or franchise transfer proceedings). Thus the Commission would not be asking the industry to provide anything more than what many operators have provided to franchising authorities over the years.

The Commission would then perform statistical analyses to determine the benchmark costs applicable to particular situations. For example, the capital cost benchmark may vary based on the type of system, marketing and administration benchmarks may vary by market type or region, et cetera. The Commission would determine the most appropriate way to categorize the benchmarks based on the empirical results.[23] The resulting benchmarks would cover costs, including a reasonable return on investment, but would exclude any monopoly component in rates.

The Commission would publish the benchmarks in a form readily understandable by local franchise authorities. Those franchising authorities who chose to regulate rates would apply the benchmarks developed by the Commission.

The proposed approach is fair to consumers and operators. The proposed approach is fair to consumers because should remove the monopoly component from rates. Yet the approach is also fair to operators because it will provide a reasonable return on investment, while creating incentives for efficiency, quality, and innovation.

Indeed, our most basic criticism of the proposals of various industry proponents that we reviewed is that none suggested a method that would effectively remove the monopoly component from current rates, and thus none would be fair to consumers, whom Congress sought to protect under the Act.[24] In general, the industry proposals will not sufficiently reduce rates because the benchmarks proposed by the industry are based on prices that already contain a substantial monopoly component. In Appendix B of our original submission, we summarized some of the evidence of the monopoly component in cable prices, including:

- Basic rates doubled during the 1984 - 1991 deregulation period, but pay rates stayed about the same. We believe the difference is largely explained by the fact that there are competitive substitutes for pay services, but not for basic services.

- The sales value of cable systems nearly doubled on a per subscriber basis between 1984 and 1991, yet the price value remained about the same when expressed as a multiple of cash flow. After considering other factors that may have contributed to this phenomenon, we concluded that it was rate increases in excess of cost increases that largely contributed to the per subscriber increase.

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23 The analytical process would be similar to that proposed by Economists Incorporated (p. 15 ff.), except that cost data would be included among the key variables.

24 Our concern on this point is shared by CFA: "The Commission cannot leave cable subscribers paying more than competitive market prices. The Commission must, therefore, roll rates back to those levels. Failure to do so would deny subscribers protection from the exercise of undue market power, the most clearly stated goal of the law" (CFA p. 13).

- The "franchise value" intangible assets appear to be quite high in the industry. "Franchise value" in effect quantifies the monopoly component in rates. We estimated the "franchise value" assets in a typical system by comparing market value (1991) to liberally high estimates for a range of what it would cost to replace a systems physical assets. The result was an estimate that between 28% and 49% of current rates is attributable to the monopoly component.[25]

- A large body of literature has documented the natural monopoly characteristics of cable television. Most recently, a U.S. Justice Department study found that at least 45% to 50% of the price increase since deregulation for cable television is due to cable's market power.

- Rates in competitive systems and municipal systems are notably lower than the average for all systems. In the survey that we conducted, January 1993 "competitive system" rates were 24% lower on a per channel basis than even 1991 rates for all systems, and the January 1993 municipal rates were about 19% lower than the 1991 rates for all systems.[26] The percentage differences would be even higher had 1993 data been available for all systems to compare to our survey results.

- Rates were notably higher than costs (including a reasonable return on investment) in thirteen systems for which we obtained cost data to test our proposed model. Basic rates were higher than costs in all thirteen cases, and expanded basic rates were higher in eleven of the cases. Depending on whether a simple average or a weighted average of the results is applied, basic rates were between 37% and 64% higher than costs, and expanded basic rates were between 15% and 28% higher than costs.

Other commentators also cited evidence of the monopoly component in cable rates:

- CFA noted that during the period of deregulation cable systems were selling for between 1.5 and 3.0 times higher than would be required to construct one from scratch.[27]

- NAB/SPR estimated a $4.52 cost-based rate for a basic tier service that TCI has announced at $10.00.[28]

We did not find any evidence in the submissions of industry advocates that would convincingly refute the conclusion that a substantial portion of current cable rates is attributable to monopoly market power. Consequently, we believe that the key test for the method that the Commission

[25] Application of these percentages to the 54¢ average rate per channel determined by the General Accounting Office survey for April 1991 yields a 27¢ to 39¢ per channel range for the most popular tier of service if the monopoly component were to be excluded from rates.

[26] We noted that the survey results may actually overstate rates where there is "effective competition," because certain of the systems in the survey likely do not meet the definition of "effective competition" specified in the Act; certain of the surveyed systems appear to serve substantial de facto monopoly areas.

[27] CFA p. 62.

[28] NAB/SPR p. 14. The range we estimated for this same service was about $1.50 to $5.00, depending on system characteristics (Smith and Katz Appendix B p. 9).

selects will be whether it leads to substantial rate decreases and savings for consumers. We believe that our proposal and certain others would lead to this result, but that the proposals submitted by the industry advocates would not.[29]

5. Reasonable Approach for the Short Term

While we believe that our proposed approach would lower rates to a fair level, we acknowledge that the cost data collection and analysis necessary to implement our proposal will require some time. Therefore, we are concerned about how the Commission might establish rules for setting rates in the short term. If rates are now substantially too high, as we believe they are, the short term approach must also reduce rates significantly in order to assure fairness to consumers, and to accomplish the statutory goals of ensuring that basic rates are reasonable, and no higher than competitive levels, and that rates for cable programming services are not unreasonable.. Again, we do not believe that any of the industry proposals would achieve this result.[30] Certain other proposals submitted in the initial round of comments would; for example:

- CFA proposes a method that would lead to per channel rates of about 34¢ to 40¢.[31]
- A Coalition of cities and counties, using certain of our data, identified a 32¢ per channel level.[32]

The rates recommended in these proposals approximate where we believe that <u>expanded basic</u> rates will come out, on average, under our proposed cost-based benchmark method, once the Commission has collected and analyzed cost data. We believe that cost-based <u>basic</u> rates, expressed on a per channel basis, would be even lower on average.[33] Thus by accepting either the CFA or Coalition proposal as the benchmark for the short term, the Commission would substantially reduce basic rates, yet assure that the rates were sufficient to cover basic service costs in nearly all cases.

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29 The NAB/SPR proposal comes closest to what we have proposed, although there are certain differences. For example, our model allows an operator to earn a return on the replacement value of its system, thus simulating the cost that would be incurred by a competitor presumed to build the same kind of system. Our model does not include depreciation. The NAB/SPR model starts with replacement value, but adjusts it to reflect system age, and recognizes depreciation. The similarities between the models are stronger than the differences, however. Particularly notable is the fact that the two approaches appear to yield very similar results for what basic rates should be in a comparable situation. The differences between the two models need not be resolved now, and could be resolved as part of the proceeding to develop industry benchmarks.

30 While industry proponents assert that their proposed benchmark methods could not be implemented immediately (see TCI pp. 3-4 and Northland p. 7, for example), they offer no method that would provide immediate relief to meaningful numbers of subscribers.

31 CFA p. 103.

32 Coalition Appendix 2 p. 5.

33 In our analysis of cost data for 13 systems, for example, the average cost of basic service per channel was 19¢; the average per channel cost of expanded basic was 36¢ (32¢ if an outlier system is excluded from the data).

6. Summary Restatement of the Proposed Cost-Based Benchmark Model

We included a detailed description of our proposed cost-based benchmark model in our original submission to the Commission in this proceeding. We restate certain overview features of the model here in order to provide a ready reference for those reviewing these comments.

The model simulates a cable operation having the same economies of scale and scope that the existing operator has in particular franchise markets. Actual numbers of subscriber counts, plant mileage, and channel offerings are used to help assure that the scale and scope factors fairly represent the actual local conditions. However, to avoid the need for hundreds or thousands of detailed local cost-of-service studies, normative cost data are used for most key cost variables. The use of cost norms helps assure that the costs that are included are reasonable and prudent, and creates an incentive for efficient expenditure.

An overview of a simplified model appears in the attached Exhibit A-1. The variables shown in the exhibit are used to calculate return on capital, replacement costs, and operating expense norms. The revenue requirement is the amount necessary to cover a return on capital, replacement costs, and operating expenses. The revenue requirement, divided by twelves times the number of subscribers (to convert to monthly) yields the cost based rate for any given service tier.

The net result of the model may be thought of as a rate selected from a cell in a three-dimensional matrix like that shown in Exhibit A-2, attached. In the simple form of the model, the number of subscribers, the number of plant miles, and the number of satellite services carried determine which rate norm is appropriate for a particular basic or expanded basic service tier for a particular community. The model could be based solely on normative data for other local factors, or could also be used with a larger set of local determining factors.

The model allocates overall costs to particular tiers of service. A flow diagram of the cost allocation approach appears in the attached Exhibit A-3. Allocation details are documented in the example of the model that appears in Exhibit A-4.

One way to describe the model is to consider categories of costs, grouped to reflect the principal characteristics that cause costs to vary across systems:

- Costs that are driven by the size and type of plant
- Costs that are driven by the services carried
- Costs that vary based on the number of subscribers

Each cost category is described below.

Costs that are driven by the size and type of plant. These costs include the level of investment necessary to construct and maintain the system and certain technical operating costs. The key variable driving these costs is plant miles, but to better differentiate cross-system variances the following system characteristics also appear relevant:

- Relative percentages of aerial versus underground
- Megahertz capacity
- Addressability
- Interactivity
- Percent of fiber

We propose that these costs be benchmarked. Given the plant miles and a plant description with respect to these characteristics, one would be able to select the appropriate benchmark for this component of costs. The Commission would develop the benchmark for each category after conducting analyses of actual plant construction and certain technical operation costs. The benchmark can then be expressed (allocated) on a "per channel" basis. The benchmark would form the basis for coverage of return on investment, capital replacement, and certain technical operating expenses (not otherwise capitalized or allocated to equipment and installation charges).

Costs that are driven by the services carried. These costs include the following operating expenses: programming acquisition, any retransmission fees, copyright fees, and other programming costs. They will differ by system, based on the selection of services offered on each tier. The model would allow these costs to be determined in one of three ways: (1) base the programming component of the benchmark on actual costs for each specific system, and pass these costs through into rates; (2) apply actual local channel line-ups against benchmarked costs for particular programming services, so that the full reasonable cost of programming in each system is recovered; or (3) set a per channel benchmark standard in such a way that the total pool of identified programming costs would be sufficient to cover any mix of the available programming. The appropriate alternative will depend on data analysis results and on Commission policy.

Costs that vary based on the number of subscribers. General and administrative expenses, certain technical expenses, and marketing expenses tend to vary either directly or indirectly with the number of subscribers. We propose that these costs be benchmarked on a per subscriber basis. Variations in local subscriber counts would capture cost variations attributable to system size. It may also be useful to distinguish market types (Top 25 TV market, etc.) and regions to reflect possible differences in marketing costs and labor costs. The Commission would construct the benchmarks based on sample cost data collection and analysis.

ATTACHMENTS

- **Exhibit A-1: Overview of Simplified Cost-of-Service Benchmark Model**
- **Exhibit A-2: Illustration of Three-Dimensional Table of Basic Rates**
- **Exhibit A-3: Overview of Cost Allocation Flow**
- **Exhibit A-4: Cable TV Rate Benchmark Model**

EXHIBIT A-1

OVERVIEW OF SIMPLIFIED COST-OF-SERVICE BENCHMARK MODEL

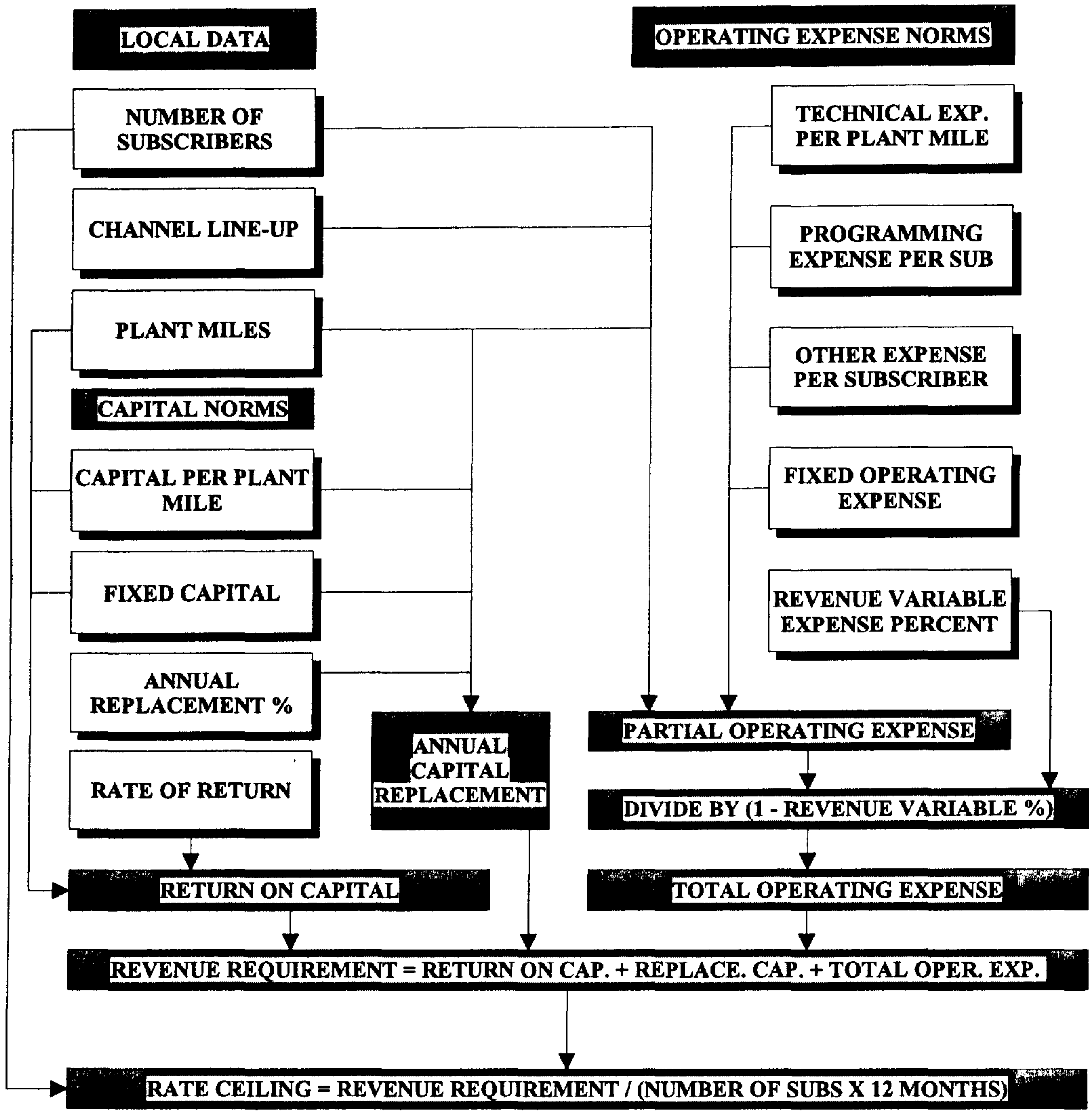

Exhibit A-2

ILLUSTRATION OF THREE-DIMENSIONAL TABLE OF BASIC RATES

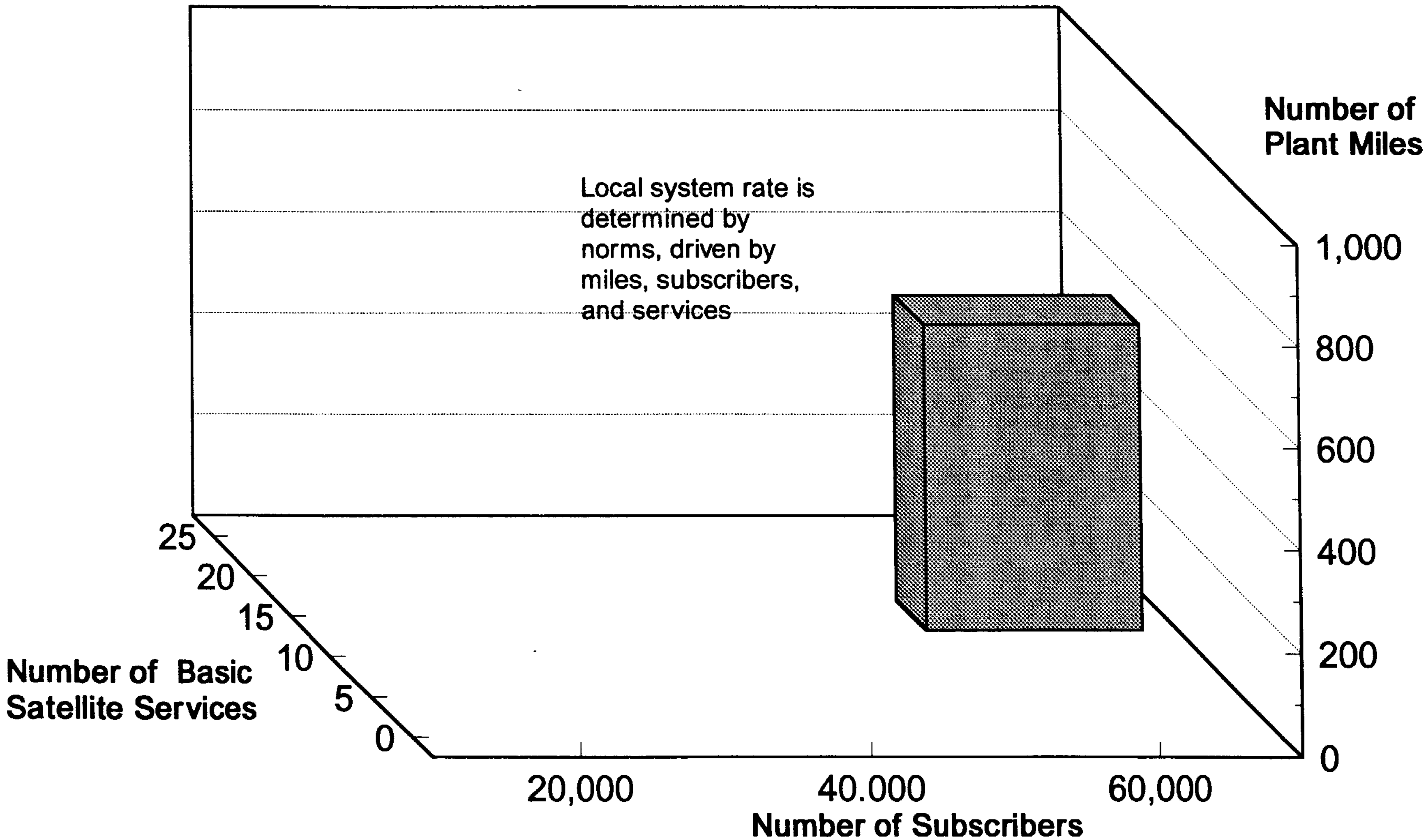

EXHIBIT A-3

OVERVIEW OF COST ALLOCATION FLOW

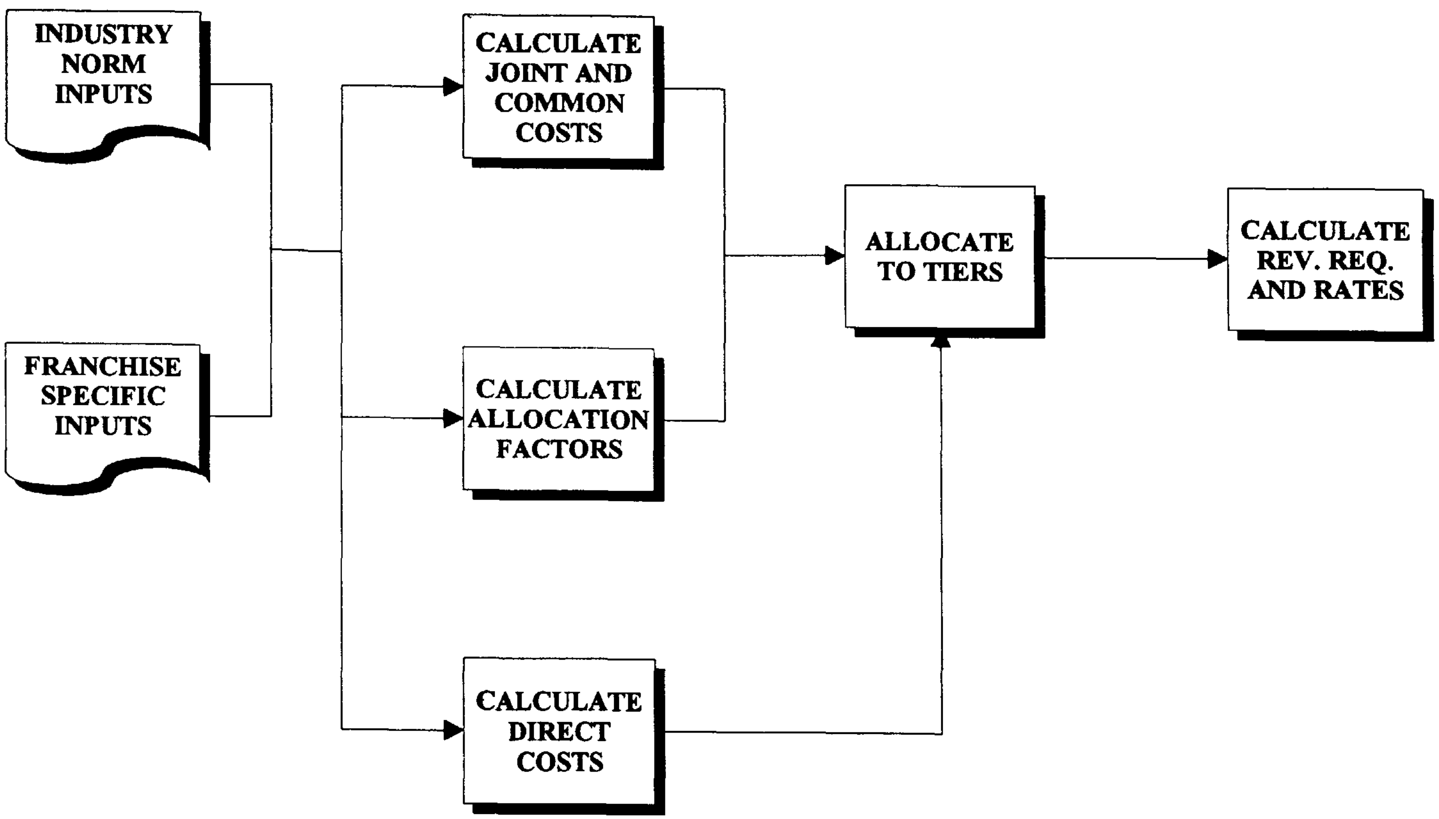

EXHIBIT A-4: CABLE TV RATE BENCHMARK MODEL

	A	B	C	D	E
1					
2	**I. MODEL INPUTS**				
3					
4	**Franchise Specific Data**			**Industry Norms**	
5					
6	**Franchise area statistics**			The figures used below are included only to illustrate how the	
7	Homes passed	100,000		cost-of-service model works. They are not intended to represent	
8	Aerial plant miles	700		actual norms. The determination of actual norms will result	
9	Underground plant miles	300		from FCC data collection and analysis.	
10	Number of subscribers	54,000			
11	Number of basic only subscribers	2,700		**Capital cost drivers**	
12	Number of expanded basic subscribers	51,300		Aerial plant cost per mile	$17,000
13	Number of pay customers*	27,000		Underground plant cost per mile	$60,000
14	Number of converters in use	37,800		Headend, towers, antenna, hubs	$1,000,000
15	Number of remotes in use	27,000		Other	$1,500,000
16	Number of annual installs - new	8,100		Annual replacement percent	5.0%
17	Number of annual installs - reconnect	8,100		**Operating cost drivers**	
18	Number of additional outlet installs	8,100		Programming	
19				Basic programming per basic subscriber***	$5.00
20	**PEG support (annualized)**	$200,000		Exp. basic program. per exp. basic sub.***	$40.00
21				Pay/PPV program. per basic subscriber****	$48.00
22				Fixed programming expense	$50,000
23	**Franchise area operating cost drivers**			Technical/plant	
24	Franchise fee percent	5.0%		Technical cost per mile	$1,000
25	Copyright fee percent - basic	1.0%		Technical cost per subscriber	$10.00
26	Copyright fee percent - exp. basic	2.5%		Fixed technical expense	$200,000
27	Other state/local taxes percent of rev.	2.0%		Marketing	
28	Retransmission expense - basic	$50,000		Marketing cost per subscriber	$10.00
29				Fixed marketing expense	$100,000
30	**Other regulated rates**			General and administrative	
31	Installation charge - new	$50.00		G&A cost per subscriber	$30.00
32	Installation charge - reconnect	$15.00		Bad debt percent of revenue	1.5%
33	Additional outlet install charge	$15.00		Other G&A percent of revenue	3.0%
34	Coverter charge per month	$3.00		Fixed G&A expense	$1,000,000
35	Remote control charge per month	$1.00			
36					
37	**Other revenue (tiers in parentheses)**			**Allowable return on capital**	12.0%
38	Advertising (exp. basic)**	$648,000			
39	Home shopping (exp. basic)**	$324,000		Install and equip. expenses per sub	$17.00
40	Other (basic)**	$324,000			
41				* Pay customers is the number with at least one	
42	**Channels**			pay service	
43	Basic	17		** Tiers assigned based on local alignment	
44	Expanded basic	27		*** Programming expense based on national norms	
45	Pay and pay per view	10		for specific services, aggregated for actual channel	
46				line-up of the system	
47	Total	54		**** Pay/PPV revenue not needed for basic calculations;	
48				total pay/PPV revenue divided by the number of	
49	Shaded variables represent the minimum set of local data			basic/expanded basic subscribers	
50	required. Other local variables could be determined as				
51	national norms instead.			Boxed inputs not required for basic or expanded basic	
52					
53	**II. ALLOCATION FACTORS (calculated from model inputs)**				
54					
55	**Channel allocation percentages**			**Subscriber allocation percentages**	
56	Basic	31.48%		Basic services*	3.33%
57	Expanded basic	50.00%		Expanded basic services**	63.33%
58	Pay and pay per view	18.52%		Pay services***	33.33%
59					
60	**Revenue variable expense**			* Number of basic only divided by sum of basic only,	
61	Basic	12.50%		expanded basic, and pay customers	
62	Expanded basic	14.00%		** Number of expanded basic divided by sum of basic only,	
63	Pay and pay per view	11.50%		expanded basic, and pay customers	
64	Other revenue	11.50%		*** Number of pay customers divided by sum of basic only,	
65				expanded basic, and pay customers	
66					

A	B	C	D	E
III. JOINT AND COMMON COST POOL (calculated from model inputs)				
Construction cost			**Per channel operating expenses***	
Headend, towers, antennas,hubs	$1,000,000		Programming	$0
Aerial plant	$11,900,000		Technical	$1,000,000
Underground plant	$18,000,000		Marketing	$0
Other	$1,500,000		General and administrative	$0
			Total*	$1,000,000
Total	$32,400,000			
			Per subscriber expenses**	
			Programming	$50,000
Return on capital	$3,888,000		Technical	$740,000
			Marketing	$640,000
Capital replacement	$1,620,000		General and administrative	$2,620,000
			PEG support	$200,000
				$4,250,000
* Includes variable per mile ; excludes fixed, per subscriber expenses and expenses driven by revenue			**Excludes per channel expenses, direct programming expenses, and expenses driven by revenue; includes fixed expenses	
IV. TIER ALLOCATIONS*				
Basic allocations			**Pay and pay per view allocations**	
Annual operating per channel	$314,815		Annual operating per channel	$185,185
Annual operating per sub	$141,667		Annual operating per sub	$1,416,667
Return on capital**	$1,224,000		Return on capital**	$720,000
Replacement capital**	$510,000		Replacement capital**	$300,000
Allocated revenue requirement*	$2,190,481		Allocated revenue requirement*	$2,621,852
Expanded basic allocations				
Annual operating per channel	$500,000		* Excludes direct programming expense and revenue variable expense	
Annual operating per sub	$2,691,667			
Return on capital**	$1,944,000			
Replacement capital**	$810,000		** Allocated on per channel basis	
Allocated revenue requirement*	$5,945,667			
V. REVENUE REQUIREMENTS				
Basic			**Pay and pay per view**	
Allocated revenue requirement	$2,190,481		Allocated revenue requirement	$2,621,852
Direct programming expenses	$320,000		Direct programming expenses	$2,592,000
Less other revenue	($324,000)			
Subtotal	$2,186,481		Subtotal	$5,213,852
Revenue variable expense	$312,354		Revenue variable expense	$677,506
Total revenue requirement	$2,498,836		Total revenue requirement	$5,891,358
Rate ceiling	$\boxed{\$3.86}$		**Required revenue per subscriber**	$9.09
Expanded basic			**Consolidated**	
Allocated revenue requirement	$5,945,667		Allocated revenue requirement	$10,758,000
Direct programming expenses	$2,052,000		Direct programming expenses	$4,964,000
Less other revenue	($972,000)		Less other revenue	($1,296,000)
Subtotal	$7,025,667		Subtotal	$14,426,000
			Plus other revenue (installs, equip., and other)	$3,628,800
Revenue variable expense	$1,143,713		Revenue variable expense	$2,133,574
Total revenue requirement	$8,169,380		Total revenue requirement	$20,188,374
Expanded component rate ceiling	$\boxed{\$13.27}$		**Required revenue per subscriber**	$31.15
Combined expanded basic rate ceiling	$\boxed{\$17.13}$		Total revenue check	$20,188,374

Continental
Cablevision

December 30, 1992

Mr. Bob Walker
Manager
Miami Valley Cable Council
1195 East Alex-Bell Road
Centerville, OH 45459

Dear Mr. Walker:

On October 5, 1992, the Congress of the United States enacted The 1992 Cable Act. This legislation will affect many facets of Continental Cablevision's operations in Greater Dayton. Therefore, during the next eighteen months as various provisions of the legislation become effective, I will keep you informed of cable system changes related to this legislation.

One of the first changes to be effected by this bill, currently being addressed by the FCC, is the development of a basis for regulating broadcast basic service rates and overseeing changes in the way cable operators charge for ancillary services such as remote converters, set top converters and additional outlets. Currently, Continental prices optional ancillary services on the basis of their benefit to the subscriber. The new cable bill, however, appears to require charges for these services to be limited by the cable companies' "costs" of providing them to subscribers.

The cable bill, in our analysis, expects cable operators to have cost-based rates for ancillary services in place by April 3, 1993. Therefore, in order to fulfill the expectations of this legislation, Continental will adjust its rates effective April 1, 1993, to our approximate 158,000 cable subscribers throughout the region. The following guideline will explain the details of these adjustments:

Continental Cablevision • Greater Dayton District
90 Compark Road • Centerville, Ohio 45459 • Phone (513) 435-2092 • Fax (513) 435-8309

Additional Outlets: Our additional outlet rate will be reduced by $2.45 or 50%, to a $2.50 monthly rate.

Set Top Converter: Historically, we have not charged a monthly service fee for set-top converters. We have chosen to continue to waive this fee in the Greater Dayton system at this time.

Broadcast Basic: (Broadcast and Access Channels 2 thru 22) There will be an increase in our broadcast basic service of $1.20 to $8.95 per month.

Satellite Service: (All Non-premium Cable Satellite Channels) The rate for satellite service will decrease by $.65 to $13.55 per month.

Choice Package: (Broadcast Basic and Satellite Service) The price of the combination of these two tiers of service will be uniformly set at $22.50 throughout the Greater Dayton system. This new rate presents an increase of $.55 to $1.50 depending on service area.

Premium Service: The cost of the first premium pay channel, such as HBO or Showtime, will be reduced by $.20 to $10.75. Additionally, in many communities multi premium pay television customers will also experience a decrease of up to $2.00 depending on their service level. Pay premium discounts will be $3.80 for two pays, $7.60 for three pays, and $12.40 for four pays.

These changes will insure that there will be price uniformity across our entire service area. In addition, beginning April 1st, 1993, local fees and assessments, such as franchise fees and applicable state sales taxes, will be itemized on all cable bills.

While we have not had the benefit of fully defined FCC procedures to follow as yet, we are confident that these new rates are within our cost limits and appropriate under the new legislation.

As depicted in the attached chart, certain rates have been increased to offset the rate decreases in additional outlets and pay channels, as well as help meet rising operating expenses for 1993. Although these changes will cause some customers to experience increases in their monthly bill, we expect that approximately 28% or over 44,000 of our customers will experience a reduction in their monthly service charge. In total these rate changes will decrease our average monthly subscriber bill by 1.2%. The franchise fee pass thru causes a 3.8% increase, which when combined equates to a increase in an average subscriber bill of 2.6%.

In spite of continuing economic uncertainty and the rising cost of operating our cable system, Continental Cablevision remains committed to our customers, to our community, and to excellence in customer service. Our well-trained and dedicated staff remains ready to provide our customers with the finest service in the business.

I would be happy to respond to any questions you may receive about these changes from your constituents. As always, please call me if you have any questions.

Sincerely,

Ronald J. Testa Jr.
Director of Corporate Affairs

1993 RATE ADJUSTMENT PER SUBSCRIBER ANAYLSIS

Service	Per Subscriber Variance
Basic Broadcast Service:	$ .03
Basic/Satellite Choice Package:	.66
First Premium Service:	(.08)
Additional Premium Service:	(.08)
Additional Outlets:	(.89)
Average Increase Per Subscriber: (Weighted)	**$ (.36)**
Percentage per Average Sub Bill:	**(1.20) %**
Franchise Fee Pass Thru	3.80 %
Net Average Increase/Subscriber	**2.6 %**

FRANCHISE NUMBER: 1

Kettering

12/22/92

Services	Current Rate*	New Rate	Net Change	5% Franchise Fee	New Total
BASIC BROADCAST (BB)	$7.75	$8.95	$1.20	$0.45	$9.40
SATELLITE SERVICE (SS)	$14.20	$13.55	($0.65)	$0.68	$14.23
Total (BB/SS)	$21.95	$22.50	$0.55	$1.13	$23.63
ADDITIONAL OUTLET COST	$4.95	$2.50	($2.45)	$0.13	$2.63
SET TOP CONVERTER	$0.00	$0.00	$0.00	$0.00	$0.00
WIRELESS REMOTE	$3.50	$3.50	$0.00	$0.18	$3.68
1 PAY SERVICE	$10.95	$10.75	($0.20)	$0.54	$11.29
2 PAY SERVICES	$17.90	$17.70	($0.20)	$0.89	$18.59
3 PAY SERVICES	$24.85	$24.65	($0.20)	$1.23	$25.88
4 PAY SERVICES	$30.80	$30.60	($0.20)	$1.53	$32.13

* Includes Franchise Fee

As of 11-30-92	
Total Number of Subscribers	18,618
% with Additional Outlets	26.76%
% with Pay Services	38.53%

CURRENT SERVICE CHARGES

DESCRIPTION OF SERVICE	CURRENT RATES	NEW RATES*
INSTALLATION		
- CABLE IN - PRIMARY OUTLET	15.00	N/A
- NO CABLE - PRIMARY OUTLET	50.00	N/A
- LIMITED SERVICE-BASIC BROADCAST	N/A	30.00
- CHOICE PACKAGE-BASIC BROADCAST-SATELLITE	N/A	20.00
- CHOICE PACKAGE & 1 PAY	N/A	10.00
- CHOICE PACKAGE & 2 OR MORE PAY	N/A	5.00
- APT/CONDOS: ADD/MOVE OUTLETS		
FIRST HOUR	30.00	
EACH 15 MINUTES THEREAFTER	7.00	
- ADDITIONAL SERVICES REQUESTED DURING INSTALLATION:		
MOVE PRIMARY OUTLET	N/C	
NON-WIRED ADDITIONAL OUTLETS	N/C	
NON-WIRED ADDITIONAL OUTLETS	30.00	
WIRED OUTLETS (NO LIMIT)	N/C	
PREMIUM SERVICES	N/C	
VCR HOOK-UP	N/C	
PARENTAL CONTROL	N/C	
A/B SWITCH	N/C	
CHANNEL TRAP	N/C	
WALL FISH (EACH)	20.00	
TRANSFER-MOVE WITHIN DISTRICT	15.00	
- APT/CONDOS: ADD/MOVE OUTLETS		
FIRST HOUR	30.00	
EACH 15 MINUTES THEREAFTER	7.00	
- ADDITIONAL SERVICES FOR TRANSFER MOVE ARE SAME AS NEW INSTALLATION		
SEPARATE TRIP		
- ADDITIONAL OUTLETS		
NON-WIRED OUTLET	30.00	
WIRED OUTLET	15.00	
- APT/CONDOS: ADD/MOVE OUTLETS		
FIRST HOUR	30.00	
EACH 15 MINUTES THEREAFTER	7.00	
- ADDITIONAL SERVICES:		
PREMIUM SERVICES	N/C	
VCR HOOK-UP	N/C	
PARENTAL CONTROL	N/C	
A/B SWITCH	N/C	
CHANNEL TRAP	N/C	
WALL FISH (EACH)	20.00	
MOVE OUTLET NON-WIRED OUTLET	30.00	
MOVE OUTLET WIRED OUTLET	15.00	
- APT/CONDOS: ADD/MOVE OUTLETS		
FIRST HOUR	30.00	
EACH 15 MINUTES THEREAFTER	7.00	
PREMIUM SERVICES	N/C	
VCR HOOK-UP	N/C	
PARENTAL CONTROL	N/C	
A/B SWITCH	N/C	
CHANNEL TRAP	N/C	
WALL FISH (EACH)	20.00	
TRIP CHARGES		
ADD SATELLITE SERVICE	5.00	
DISCONNECT SATELLITE SERVICE	N/C	
PREMIUM SERVICE	5.00	
PREMIUM SERVICE SWITCH	5.00	
VCR HOOK-UP	N/C	
PARENTAL CONTROL	N/C	
A/B OR A/B/C SWITCH	10.00	
CHANNEL TRAP	10.00	
DELINQUENT TRIP	20.00	
PPV FILTER PICKED UP AT DOOR	20.00	
CONVERTER EXCHANGE AND/OR PICK UP	N/C	
EQUIPMENT CHARGES		
PARENTAL CONTROL DEVICE	20.00	
A/B OR A/B/C SWITCH KIT	5.00	
CHANNEL TRAP	N/C	
MISCELLANEOUS CHARGES		
RETURN CHECK FEE	20.00	
WALL FISH	20.00	
DAMAGED HAND SET	10.00	
LOST HAND SET	15.00	
NAME CHANGE	N/C	
REWORK	30.00	
DAMAGED CONVERTER	35.00	
DELINQUENT RECONNECT CHARGE	30.00	

*Effective as of February 15, 1993

Continental Cablevision

January 11, 1993

Mr. Bob Walker
Manager
Miami Valley Cable Council
1195 East Alex-Bell Road
Centerville, OH 45459

Dear Mr. Walker:

After some inquiry, it has come to our attention that some figures released to you for the purpose of explaining our 1993 rate adjustment are imprecise. Specifically, references to "Franchise Fees" in the fifth column of the sheet titled Miami Valley Cable Council did not contemplate the correct amount of franchise fees to be paid to your community. They do, however, reflect the total franchise fee to be collected from the subscriber.

Continental Cablevision's franchise agreement with Miami Valley Cable Council requires our company to reimburse your community a specific percent of franchise fee based on subscriber receipts. However, in itemizing franchise fees as an explanation of the new 1993 rate, we indicated the franchise fee to be collected from the subscriber; not the fee to be paid back to Miami Valley Cable Council.

The example below illustrates the variance between the franchise fee collected and the franchise fee paid. In fact, this variance amounts to an additional percentage on top of the franchise fee required.

Example:

	New Rate	5 % fee collected	Total Revenue	5 % fee paid
Community, OH	$22.50	$1.13	$23.63	$1.18

variance - $.05

Continental Cablevision • Greater Dayton District
90 Compark Road • Centerville, Ohio 45459 • Phone (513) 435-2092 • Fax (513) 435-8309

The variance between the amount collected from subscriber's for franchise fees and the amount of money paid to your community for franchise fees will be absorbed by Continental Cablevision. We will not adjust our uniform rates to accommodate this variance. However, as this variance relates to an increase in the overall expenses of offering cable television service, if you are interested in amending your franchise to exclude the assessment of a franchise fee on a franchise fee, we would look forward to discussing it with you.

Please call if you should have any questions pertaining to this slight variation in information.

Sincerely,

Ronald Testa
Director of Corporate Affairs

FRANCHISE NUMBER: 1

Kettering

01/06/93

Services	Current Rate*	New Rate	Net Change	New Total*	5% Franchise Fee
BASIC BROADCAST (BB)	$7.75	$8.95	$1.20	$9.40	$0.47
SATELLITE SERVICE (SS)	$14.20	$13.55	($0.65)	$14.23	$0.71
Total (BB/SS)	$21.95	$22.50	$0.55	$23.63	$1.18
ADDITIONAL OUTLET COST	$4.95	$2.50	($2.45)	$2.63	$0.13
SET TOP CONVERTER	$0.00	$0.00	$0.00	$0.00	$0.00
WIRELESS REMOTE	$3.50	$3.50	$0.00	$3.68	$0.18
1 PAY SERVICE	$10.95	$10.75	($0.20)	$11.29	$0.56
2 PAY SERVICES	$17.90	$17.70	($0.20)	$18.59	$0.93
3 PAY SERVICES	$24.85	$24.65	($0.20)	$25.88	$1.29
4 PAY SERVICES	$30.80	$30.60	($0.20)	$32.13	$1.61

* Includes Franchise Fee

As of 11-30-92	
Total Number of Subscribers	18,618
% with Additional Outlets	26.76%
% with Pay Services	38.53%

miami valley cable council
1195 East Alex-Bell Road • Centerville, Ohio 45459 • (513) 438-8887

January 13, 1993

Mr. Ronald J. Testa, Jr.
Director of Corporate Affairs
Continental Cablevision
90 Compark Road
Centerville, Ohio 45459

Dear Mr. Testa:

Thank you for your letter of December 10, 1992, informing us of planned changes regarding cable service that Continental Cablevision ("Continental") intends to make effective April 1, 1993.

We appreciate your informing us of the planned changes. However, please understand that, if implemented, those changes will be made at Continental's own risk, without prejudice to any rights the Miami Valley Cable Council ("the Council"), or the local franchising authorities it represents, may have under the member communities' franchises, as amended; the 1984 Cable Act; and, in particular, the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"). I note in this regard that, as you no doubt are aware, Continental will become subject to rate regulation under the 1992 Cable Act, and the rate changes proposed in your letter, if implemented, will be made at Continental's risk, subject to the rate regulation rules ultimately promulgated by the Federal Communications Commission under the 1992 Cable Act.

In addition to rates for cable services, rates for installation and equipment are also subject to regulation under the 1992 Cable Act. Accordingly, like the proposed changes in rates for cable service, the changes your letter proposes in the installation charges for equipment used to receive basic service, effective February 15, 1993, will be subject to regulation on the basis of actual cost under the 1992 Cable Act. We do not approve these rate or service changes, and reserve all rights to reverse the proposed increase or otherwise to adjust Continental's rates in accordance with the governing statutes, regulations, and franchise terms.

Separate and apart from the matter of rate regulation, we have substantial difficulty with the manner in which Continental has disclosed its proposed rate increases. Specifically, we believe that both the text of the December 30 letter and the attached schedules present an inaccurate and misleading description of Continental's proposed rate increase and its pass-through of franchise fees. The materials are misleading and inaccurate in three respects. First, they lead the reader to believe that franchise fees are not part of your retail price, when in fact they are. Second, they overstate the impact of franchise fees on the price changes by suggesting that franchise fees are not part of your current prices, when in fact they are. Third, you have erroneously calculated the franchise fees. We request that Continental immediately correct these errors and notify those who received the December 30 letter of the corrections.

(1) If Continental chooses to itemize an amount on its bill to represent the cost of franchise fees, that amount is still part of Continental's retail price, whether or not it is separately itemized. The franchise fee is not a tax on subscribers collected by Continental. Instead, it is a cost of doing business for Continental like any other expense, such as programming, equipment, or promotion, or your salary. The franchise fee is Continental's rent expense to the franchising authorities for its use of their property and rights of way. Without this use, which precludes others from using the same capacity, Continental could not do business at all.

Thus the new subscriber rate shown must include the five percent paid in franchise fees. For this reason, in the sample calculation for Kettering appended to your letter, the heading "New Rate" is incorrect. The true "new rate" is the amount shown in the column headed "New Total"; the amount shown as "New Rate" is merely an internal accounting construct. Continental's new charge for basic broadcast service (BB), for example, is $9.40, <u>not</u> $8.95, regardless of whether you choose to itemize selected components of that rate separately.

(2) The deceptiveness of the calculation is compounded by the column in the Kettering table headed "Net Change," which actually suggests (as does the text of your letter) that rates have decreased for pay services and for the satellite service package (SS). You suggest, for example, that the rate for one pay service will decrease by $0.20. In fact, the rates charged by Continental to its subscribers, as reflected on the Kettering table, will be increased in every case, except for the additional outlet cost. The rate for one pay service will not decrease by $0.20, but will rise from $10.95 to $11.29, an increase of $0.34. It is thus most unlikely that 44,000 subscribers will see a net decrease in their "monthly service charge."

For the same reasons, to attribute most of Continental's rate increase to the franchising authorities or the franchise fee would be grossly misleading to consumers. Continental is, after all, already obliged to pay franchise fees on its gross revenues, and the franchise fee cost to Continental is already included in the current rates, although this is not separately disclosed to subscribers. In other words, the "Current Rate" amounts and the "New Rate" amounts are not comparable: the "Current Rate" of $7.75 for basic broadcast service, for example, includes a five percent franchise fee ($0.3875), but the "New Rate" of $8.95 does not. Because the franchise fee is listed after the current rate in an apparent progression from a current rate on the left to a new total on the right, the table strongly -- and inaccurately -- suggests that the franchise fees represent a new cost being added over and above Continental's current rates. Yet, by definition, the amount of your rate increases attributable to franchise fees can be no more than five percent of the total rate increase. Continental is responsible for the remaining 95% of any price increase. Continental may not use its new itemization of existing costs in this way to conceal the true magnitude of its rate increase, nor to misleadingly suggest to the Cable Council or to subscribers that the rate increase is due to franchise fees.

(3) The five percent franchise fee must be calculated on the entire charge to the subscriber, not on Continental's charge less the franchise fee amount. Thus, for example, in the Kettering table, the new franchise fee for basic broadcast service (BB) is five percent of $9.40, not five percent of $8.95, and thus should be $0.47, not $0.45 as shown.

Subject to applicable rate regulation, the Cable Act allows, but by no means requires, Continental to itemize on subscribers' bills the portion of its charges attributable to its franchise fee expense. But nothing in Continental's business judgments as to whether to itemize this particular expense relieves it from its obligation under Section 44 of the franchises to pay a fee equal to five percent of its gross revenues. Nor is there any basis for a claim that Continental's right under the Cable Act to itemize this particular expense on its bills gives it a right to transform that expense into a deduction from "gross revenues" in calculating the franchise fees owed. Whether itemized or not, the franchise fee is an expense, and it may no more be deducted from "gross revenues" than any other expenses Continental incurs in its business, regardless of the extent to which the expense is recouped through the charges imposed on subscribers.

Excluding the franchise fee or any other type of expense would contravene the Cable Act and the franchises by making the franchise fee a percentage of net revenues, not gross. Although Continental might prefer the former, the Cable Act and the franchise provide for the latter.

We therefore assume that your franchise fee calculations and your presentation of the itemized charges will be corrected before Continental's first notice to subscribers. If you have already notified subscribers, we expect your disclosure will be promptly corrected. If the increased rates are presented to subscribers as they are in the December 30 letter, and if any past disclosures are not promptly corrected, we would have no choice but to contact state and federal authorities about investigating the serious issues that would arise under applicable deceptive trade practice laws.

Please call me if you have any questions.

Sincerely,

Robert F. Walker

Robert F. Walker
Manager

RFW:r
c: Richard Hutchinson, Continental Cablevision
Miami Valley Cable Council
City Managers of Miami Valley Cities with Continental Cable Franchises